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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

VINCENT FIORENZA, an individual,

Plaintiff,

vs.

CLIENT SERVICES, INC. a Missouri
corporation,

Defendant

Case No.: [Number]

COMPLAINT

Demand for Jury Trial

VINCENT FIORENZA (“Plaintiff”), by and through counsel, GESUND LAW
OFFICES, LLC alleges the following against CLIENT SERVICES, INC. (“Defendant”):

INTRODUCTION

1. Plaintiff’s Complaint is based on the Fair Debt Collection Practices Act, 15
U.S.C. §1692 *et seq.* (“FDCPA”) and the Rosenthal Fair Debt Collection Practices Act, Cal. Civ.
Code § 1788 *et seq.* (“RFDCPA”).

JURISDICTION AND VENUE

2. The Court has jurisdiction over this action pursuant to the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692 *et seq.* and 28 U.S.C. § 1331. The Court has supplemental jurisdiction for the state law claims pursuant to 28 U.S.C. § 1367.

3. Venue is proper pursuant to 28 U.S.C. § 1391(b) because Plaintiff and Defendant reside and/or do business in the Northern District of California. Venue is also proper in this District because the acts and transactions that give rise to this action occurred, in substantial part, in the Northern District of California.

PARTIES

4. Plaintiff is a natural person residing in Monterey, California 93940.

5. Defendant is a debt collection company located at 3451 Harry S Truman Blvd, St Charles, MO 63301.

6. Defendant is a “debt collector” as that term is defined by 15 U.S.C. § 1692a(6) and §1788.2(c) repeatedly contacted Plaintiff in furtherance of its attempt to collect a debt from Plaintiff’s son.

7. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

8. At all pertinent times, Defendant was hired to collect a consumer debt.

1 9. Defendant is a debt collection company that collects, and attempts to collect, debts
2 incurred, or alleged to have been incurred, for personal, family, or household purposes on behalf
3 of creditors using the U.S. mail, telephone and/or internet.
4

5 10. On or before August 29, 2013, Defendant's agent, Mark Miller, began placing calls
6 to Plaintiff. Defendant would call Plaintiff approximately 3-6 times a day, one call immediately
7 after another, in an attempt to collect a consumer debt from Mr. Fiorenza's son.

8 11. Plaintiff explained to Mr. Miller that his son does not live there, that he and his wife
9 are seniors, and to please stop calling them as his wife recently had surgery and the calls were
10 upsetting her.
11

12 12. In response, Mr. Miller falsely threatened to call Plaintiff's workplace in an attempt
13 to embarrass him.

14 13. Defendant also continued to place calls to Plaintiff.
15

16 **FIRST CAUSE OF ACTION**
17 **DEFENDANT VIOLATED THE**
18 **FAIR DEBT COLLECTION PRACTICES ACT**

19 14. In its actions to collect a debt, Defendant violated the FDCPA as follows:

- 20 a. Pursuant to 15 U.S.C. § 1692d(5) "A debt collector may not engage in any conduct
21 the natural consequence of which is to harass, oppress, or abuse any person in
22 connection with the collection of a debt" including "causing a telephone to ring or
23

engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.”

b. Here, Defendant contacted Plaintiff between 3-6 times in a day, one call right after the other, in an attempt to annoy and harass Plaintiff.

c. A debt collector is prohibited from “engag[ing] in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.” 15 U.S.C. §1692d;

d. A debt collector is also prohibited from using “any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.” 15 U.S.C. § 1692e(10).

e. Here, Defendant misrepresented that it would contact Plaintiff’s employer in an attempt to harass and intimidate Plaintiff;

f. Defendant also continued calling Plaintiff after Plaintiff requested Defendant stop calling as it was harming his wife in an attempt to harass Plaintiff.

**SECOND CAUSE OF ACTION
DEFENDANT VIOLATED THE ROSENTHAL
FAIR DEBT COLLECTION PRACTICES ACT**

15. In its actions to collect a debt, Defendant violated the RFDCPA as follows:

a. Pursuant to § 1788.11 (d) and (e), a debt collector is prohibited from “[c]ausing a telephone to ring repeatedly or continuously to annoy the person called; or

1 [c]ommunicating, by telephone or in person, with the debtor with such frequency
2 as to be unreasonable and to constitute an harassment to the debtor under the
3 circumstances.”

4
5 b. As set forth above, Defendant called Plaintiff 3-6 times a day, once right after the
6 other, to annoy Plaintiff and also continued to call when Plaintiff asked them to
7 stop.

8 c. According to § 1788.16 of the RFDCPA, “every debt collector collecting or
9 attempting to collect a consumer debt shall comply with the provision of Sections
10 1692b to 1692j, inclusive, of, and shall be subject to the remedies in Section 1692k
11 of, Title 15 of the United States Code.”

12
13 d. As discussed above, Defendant violated a number of FDCPA provisions.

14 WHEREFORE, Plaintiff, respectfully prays for judgment as follows:

15 a. Actual damages incurred by Plaintiff pursuant to 15 U.S.C. § 1692k(a)(1) and
16 §1788.30(a);

17
18 b. Statutory damages for \$1,000 for violation of the FDCPA pursuant to 15 U.S.C. §
19 1692k(a)(2)(A) and §1788.30(b);

20 c. All reasonable attorneys’ fees, witness fees, court costs and other litigation costs
21 incurred by plaintiff pursuant to 15 U.S.C. § 1692k(a)(3) and §1788(b) and (c); and

22
23 d. Any other relief deemed appropriate by this Honorable Court.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, VINCENT FIORENZA, hereby demands a jury trial for this case.

Dated this 3rd day of March, 2014.

RESPECTFULLY SUBMITTED

/s/ Keren E. Gesund, Esq.

KEREN E. GESUND

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